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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/086,885	03/04/2002	Christopher M. Osborne	052833-5012	1879
9629	7590	01/23/2004	EXAMINER	
MORGAN LEWIS & BOCKIUS LLP, 1111 PENNSYLVANIA AVENUE NW WASHINGTON, DC 20004			PETRAVICK, MEREDITH C	

ART UNIT	PAPER NUMBER
3671	

DATE MAILED: 01/23/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/086,885	OSBORNE, CHRISTOPHER M.	
	Examiner	Art Unit	
	Meredith C Petrvick	3671	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on _____.
- 2a) This action is FINAL. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 1-13 and 16-35 is/are pending in the application.
 - 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) Claim(s) 4-12 and 18-33 is/are allowed.
- 6) Claim(s) 1-3, 13, 16 and 17 is/are rejected.
- 7) Claim(s) 35 is/are objected to.
- 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on 04 March 2002 is/are: a) accepted or b) objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. §§ 119 and 120

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.
- 13) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.
 - a) The translation of the foreign language provisional application has been received.
- 14) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

Attachment(s)

1) <input type="checkbox"/> Notice of References Cited (PTO-892)	4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____ .
2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)	5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)
3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) <u>4</u> .	6) <input type="checkbox"/> Other: _____ .

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claim 1-2 are rejected under 35 U.S.C. 102(b) as being anticipated by Scanland 4,422,283.

Scanland discloses a lawnmower deck including:

- a deck sub-assembly with a top surface (includes 13) and a skirt (20)
- a cutting chamber (18)
- a front pair of wheel mounts and a rear pair of wheel mounts (Fig. 1)
- a stiffener (30, 31, 21, and 22)

The skirt encircles the top surface and defines the cutting chamber and wheel mounts.

The stiffener is connected to the top surface. The combined stiffness of the deck sub-assembly and the stiffener is inherently approximately 20% greater than just the stiffness of the deck sub-assembly.

In regards to claim 2, the stiffener includes two side stiffener section (30, 31) and two transverse stiffener sections (21, 22) that are connected to the side stiffeners sections.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 3, 12-13 and 16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Scanland in view of Zener 4,930,298.

Scanland discloses the device as detailed above.

However, the combination fails to disclose providing a cover.

Like the Scanland, Zenner discloses a mower deck that has the prime mover mounted on the top surface of the deck. Unlike the combination, Zenner discloses providing a cover over the top surface of the deck. Zenner teaches that the cover provides safety to the operator and protection from debris for the prime mover (Column 2, lines 29-40).

Given the teachings in Zenner, it would have been obvious to one having ordinary skill in the art at the time the invention was made to provide the mower deck of Scanland with a cover as in Zenner, in order to increase safety for the operator and facilitate protection of the prime move from debris.

In regards to claim 12, in Scanland, the stiffener is received in a channel (32, 33) on the deck.

In regards to claim 16, the means for resisting flexion is the stiffener, cover and a pair of handle mounts (60, 61).

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In regards to claim 17, the means for resisting flexion include ribs (portion next to 23 and 24) on either side of stiffener portion (21). This is between the front pair of wheel mounts (Fig. 1).

5. Claim 34 is rejected under 35 U.S.C. 103(a) as being unpatentable over Scanland in view of Sebben 5,257,908

Scanland discloses the device as detailed above. However, Scanland discloses making the deck from lightweight metal instead of plastic as claimed.

Like Scanland, Sebben discloses a lightweight mower deck. Unlike Scanland, Sebben teaches that making the deck from plastic is better than making the deck from metal. Sebben teaches that a plastic mower deck is resistant to wear and corrosion (Column 1, line 10 - Column 2, line 2).

Given the teaching is Sebben, it would have been obvious to one of ordinary skill in the art at the time the invention was made to make the mower deck of Scanland from plastic as in Sebben, in order to increase wear and corrosion resistance.

6. Claim 15 is rejected under 35 U.S.C. 103(a) as being unpatentable over Scanland in view of Sebben as applied to claim 15 above, and further in view of Zenner.

The combination of Scanland and Sebben discloses the device as detailed above. However, the combination fails to disclose providing a cover.

Like the combination, Zenner discloses a mower deck that has the prime mover mounted on the top surface of the deck. Unlike the combination, Zenner discloses providing a cover over

the top surface of the deck. Zenner teaches that the cover provides safety to the operator and protection from debris for the prime mover (Column 2, lines 29-40).

Given the teachings in Zenner, it would have been obvious to one having ordinary skill in the art at the time the invention was made to provide the mower deck of the combination with a cover as in Zenner, in order to increase safety for the operator and facilitate protection of the prime move from debris.

Allowable Subject Matter

7. Claims 4-11 and 18-33 are allowed.
8. Claim 35 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Response to Arguments

9. Applicant's arguments filed 11/5/03 have been fully considered but they are not persuasive.

Claims 1-3 are original. Claims 13, 16-17 have been amended. Claim 34 has been newly added. Claims 4-11, 18-33 and 35 are allowable over the prior art.

In the amendment filed 11/5/03, applicant argues 1) that Scanland meet the limitation in claim 1 that the combination of the stiffener and the and the deck-subassembly have a stiffness of

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at least approximately 20% greater than the deck-subassembly alone and 2) that the claimed combination of Scanland and Zenner fails to show a cover at claimed.

In response to applicant's first argument, the combination of the stiffener and the deck-sub-assembly in Scanland inherently increases the stiffness of by at least approximately 20%. Column 2, lines 27-32 state, "The use of longitudinal frame members in combination with the mower deck and the attachment of the frame members at multiple points on the housing provides for a structure that is more rigid and lighter than is possible with just tubular frame members or mower housing alone." The claim only requires "at least approximately 20%." The device in Scanland meets this limitation.

In response to applicant's second argument, claim 13 states, "a cover extending over the stiffener and connected to the engine bed." Contrary to applicant's arguments, the combination of Scanland and Zenner discloses a cover that both covers the stiffener and is connected to the engine bed. The cover in Zenner covers the entire top of the mower deck. One of ordinary skill in the art in when modifying Scanland in view of Zenner, would cover the entire top of the mower deck, including the stiffener, since Zenner teaches that this protects the mower from dirt and debris. Further, this cover would be attached to the engine bed through the mower deck.

Therefore, for the reasons stated above, the claims remain rejected.

Conclusion

10. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

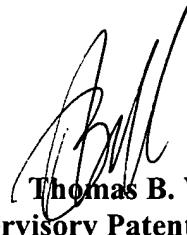
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A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

11. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Meredith Petravick whose telephone number is 703-305-0047. The examiner can normally be reached on Monday-Thursday from 7:00 a.m. – 4:30 p.m.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Thomas B. Will, can be reached at 703-308-3870.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the group receptionist whose telephone number is 703-305-1113. The fax number for this Group is 703-305-3597.



Thomas B. Will
Supervisory Patent Examiner
Group Art Unit 3671

MCP
January 20, 2004